April 27, 2004

Secretary Mary Cottrell
Department of Telecommunications and Energy
One South Sation
Boston, MA 02110

RE: Comments of Local 12325, United Steelworkers of America in the Berkshire Gas Company Service Quality Docket, DTE 04-13

Dear Secretary Cottrell:

These comments are submitted by Local 12325 of the United Steelworkers of America ("Local 12325") in response to the 2003 Service Quality ("SQ") Report filed by the Berkshire Gas Company ("Berkshire").[1] Local 12325 is the collective bargaining agent for approximately 63 workers at Berkshire.

Local 12325 and twenty-four named customers separately filed a complaint against Berkshire on April 9, 2004, pursuant to the "twenty customer" complaint procedure contained in G. L. c. 164, § 93. DTE 04-44. In that complaint, Local 12325 alleges that Berkshire is in violation of the staffing level requirements of G. L. c. 164, §§ 1E & 1F, and that the quality of service provided to customers has suffered as a result. Local 12325 incorporates into these comments the facts alleged in that complaint. Local 12325 also fully supports the comments filed in this docket (04-13) by the Attorney General, in which the he "renews his request that the Department conduct an investigation that allows intervention, discovery and evidentiary hearings to address the Company's reductions in staffing level and possible violation of G. L. c. 164, § 1E(b)."

If the Department were to conduct the investigation that both the Attorney General and Local 12325 seek, it should specifically investigate whether Berkshire has failed in recent years to take specific actions, noted below, that are critical to protecting public safety. Based on the limited information available to it, Local 12325 believes that an investigation would reveal the following:

[1] Comments in this docket were due on April 21, 2004. However, Local 12325 obtained an extension until April 27, 2004, per conversation with Hearing Officer Jody Stiefel.

1. In recent years, Berkshire may have severely curtailed the scope and/or frequency of the downtown and public building surveys required by 220 C.M.R. 101.06(21), due to manpower shortages.

2. Berkshire also may have unduly postponed its repair and/or monitoring of class 2 gas leaks, due to manpower shortages.

3. Berkshire may have curtailed its efforts to inspect and physically protect exposed (outdoor) meters from accidents, due to manpower shortages. By letter to Berkshire's President dated July 3, 2003, the Director of the Department's Pipeline Engineering and Safety Division noted a "probable violation involving gas meter protection," specifically "meter sets [meters] that were not protected from vehicular traffic and/or other damage." Notice of Probable Violation, DTE 03-PL-07. The July 3, 2003 letter referred to an earlier Warning Letter in which Berkshire was directed to "audit its system . . . to relocate or to install protection for its meters to prevent damage from corrosion or other damage." The July 3, 2003 letter further noted that "apparently Berkshire failed to complete the audit and corrective action." As of July 3, 2003, Berkshire was directed "within 60 days ... [to] perform an audit of all outside meters and regulators" and, "prior to January 15, 2004, provide the Department with a statement attesting that all meter locations [which require corrective action] have been corrected to meet [49 C.F.R.] § 192.353(a)."

   Based on information available to it, Local 12325 states that Berkshire has not yet fully completed the audit and corrective measures required by DTE 03-PL-07 and that unprotected meters remained on the system after January 15, 2004. The Department must investigate this matter thoroughly to ensure the public's safety.

4. Berkshire has yet to establish an adequate "curb box" program. By letter dated September 18, 2003, the Department's Director of Pipeline Engineering and Safety Divison, in a letter to KeySpan (the reasoning of which applies to all gas companies) made clear that gas companies must maintain the "accessibility of curb valves in gas distribution systems." The letter emphasized that failure to maintain the accessibility of these valves "could hinder gas shutoff in an emergency." The letter concluded by noting a company's obligations to "identify . . . any service line valve on intermediate or high pressure systems or on service lines supplying gas to a theater, church, school, factory or other building where large numbers of people assemble;" to "conduct an inspection program to confirm the location and maintain the accessibility of each underground service line in [the previous clause];" and "conduct a maintenance program to verify that each curb box is immediately accessible on streets, roads and sidewalks undergoing repair by state or municipal agencies."

   Based on the information available to it, Local 12325 believes that Berkshire has not complied with these requirements. The Department must investigate this matter thoroughly to ensure the public's safety.

5. Based on the information available to it, Local 12325 believes that Berkshire routinely fails to follow up on written or other reports filed by workers in the field that notify the company of piping, service and meter set upgrades that need to be performed. Some of these reports note problems that if not fixed could place public safety at risk. Local 12325 also believes that Berkshire is not in compliance with G. L. c. 164, § 115A requiring the replacement of all meters on a seven-year schedule. The Department must investigate this matter thoroughly to ensure the public's safety.

Berkshire does not address any of these five issues in its filing. The Department therefore cannot ensure that Berkshire is adequately protecting public safety without further investigation.

Like the work force at virtually every utility in Massachusetts, the Berkshire work force is aging. In key areas such as the Street Department, a large percentage of the workers have 30 years or more of experience and are near retirement age. Having devoted their working lives to physically demanding and dangerous work, some of them have suffered injuries that restrict their physical capacities. Yet to the knowledge of Local 12325, the company does not have an adequate plan to recruit and train new workers as the aging workers retire. This poses the risk of having an inadequate number of less experienced workers carrying out key inspection, repair and maintenance functions. The Department should thoroughly investigate Berkshire's plans, if any, to bring enough young workers into the pipeline so that they can be adequately trained and gain enough experience to replace the highly experienced workers now doing the job. Ensuring the public's safety requires no less.

Local 12325 is also concerned that various departments at Berkshire (e.g., meter shop, service, street and production) are so thinly staffed that they often draw upon each other to maintain adequate staffing levels within each department, as safety or other considerations require. This creates three separate problems. First, workers who are more than adequately trained to perform their usual job are called upon to carry out tasks for which they may not have been adequately trained, increasing the risk of harm to themselves and the public. Second, the departments from which these workers are drawn (often the service department) themselves become short-handed, increasing the backlog of essential work that needs to be completed. Third, at times, Berkshire does not have a sufficient number of qualified workers to comply with safety regulations (e.g., regulating the minimum number of people who must be present to conduct at particular types of underground system tasks).

Local 12325 is also very concerned that Berkshire has significantly reduced capital expenditures, as a significant portion of capital expenditures is devoted to repairing and upgrading lines. On its Form A, Berkshire reports capital expenditures of only $2.17 million in 2003, 25% less than the 10-year mean expenditures of $2.89 million also reported on Form A. In each of the past ten years, Berkshire has spent more than $2.17 million on capital expenditures, with the exception of 1998, when the company spent $1.98 million. DTE 04-13, Page II - 12.

However, in 2003 dollars, that $1.98 million (nominal 1998 dollars) would be $2.23 million.[2] Berkshire's 2003 capital expenditures of $2.17 million are thus 25% below the ten year mean for capital expenditures and lower, in 2003 dollars, than at any time during the ten year reported history. The Department should thoroughly investigate why Berkshire has cut back so substantially on capital expenditures, and the effect of this cutback on repair and replacement of aging distribution mains and service lines.

Local 12325 also notes that Berkshire reports a 2003 "unaccounted for gas percentage" of .87%, close to double the mean reported rate of .45%. It may be pure coincidence that the company's "unaccounted for gas" rate increased in the same year that capital expenditures decreased, but the potential correlation between declining capital expenditures and increasing gas losses should be closely investigated by the Department.

To date, the Department has largely treated review of service quality reports as a *pro forma* exercise, one that calls for making sure each company has in fact filed its report and properly calculated any penalty that is due. Local 12325 asks the Department to take its obligations more seriously, especially where public safety may be at risk. The 1998 explosion in Attleboro that killed two people, ultimately attributed to the incompetence of an outside locating service; the gas explosion at a home in Hopkington in 2002 that killed two small girls; and the very recent (April 22) explosion that killed at least one person in New Bedford — they are all somber reminders of the importance of the Department being vigilant about safety inspections, leak detection, and the repair and upgrading of gas distribution systems. The time has come for the Department to devote serious attention to review of service quality reports.

Respectfully submitted,

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Counsel for Local 12325

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[2] Using as an inflator the Bureau of Labor Statistics CPI-All Urban Consumers Index. (CPI-A.U. in mid-1998 was 1630.0; CPI-A.U. in mid-2003 was 183.7. 183.7/163.0 = 1.127 (inflator); 1.127 x $1.98 million = $2.23 million.)